

## Gang Land News

Real Stuff about Organized Crime

<http://www.ganglandnews.com>

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DEC 20 2011

INFORMATION OFFICE

JERRY CAPECI  
webmaster

December 19, 2011

Chief Judge Carol Bagley Amon  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: US v. Matthew Rinaldo, Docket #11CR783

Dear Judge Amon:

I am a reporter/columnist who has written about this indictment – as well as several cases that are related to it – in recent weeks. As an interested party, I petition you to treat this letter as a “pro-se” motion to unseal a government exhibit that was filed earlier this month in opposition to the defendant’s pending motion for bail.

The exhibit, identified as Exhibit B, was filed by assistant U.S. attorney Nicole Argentieri on December 6 along with the “Government Memorandum of Law In Opposition To Defendant’s Motion For Release On Bail Pending Trial.” (The Memorandum is identified on the docket sheet as Document #14.)

In numerous cases, the Second Circuit has recognized a motion to intervene as the procedurally proper device for purposes of protecting the public right of access in a criminal proceeding. See, e.g., *United States v. King*, 140 F.3d 76, 77 (2d Cir. 1998); *United States v. Haller*, 837 F.2d 84, 85 (2d Cir. 1988); *Herald*, 734 F.2d at 96. Accordingly, I ask that you allow me to intervene for the limited purpose of asserting the public’s right of access to the document cited above, and that you treat this letter as a “pro-se” motion. I have delivered (via fax and email) a copy of this letter to the government and the attorney for the defendant.

According to the Memorandum, the exhibit contains photographs of the defendant and other members and associates of the Bonanno crime family as they exited a Staten Island restaurant on October 18, 2011. The reference to the exhibit is contained in a section of The Memorandum entitled “The Defendant’s Participation in the Bonanno Family.” The section alleges that the defendant is “an associate of the Bonanno Family, a violent criminal organization.”

The Memorandum is publicly filed. It is a reply to a publicly filed motion for bail by defense attorney James Froccaro. Upon Information and belief, arguments on the motion began last week and are still continuing.

*The United States Attorney is directed to publicly file Exhibit B. These photos were exhibited previously in open court.*

*So Understood.* s/CBA

*12/20/11*

*copy sent to Jerry Capedi.*

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There is no indication on the docket sheet that Exhibit B – or any of the other exhibits mentioned in The Memorandum are sealed – but they are not available on ECF. When I tried to obtain a copy of Exhibit B from the U.S. Attorney's office I was informed by Robert Nardoza, the official spokesperson for the office of U.S. Attorney Loretta Lynch that the exhibit is not public.

When I mentioned that the photos were filed in conjunction with publicly filed court papers in the case, contended that they should be public, and tried to get an explanation as to why they were not, I was informed, simply, "The photos are not public."

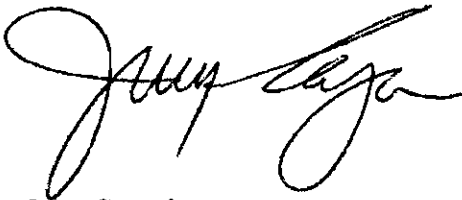
It is well established in this district, and in federal courts around the country, that except for extraordinary reasons, namely those that involve national security or safety of witnesses or other individuals, the public and the press have a common law right as well as a First Amendment right to all judicial documents, including exhibits, in all criminal cases.

As Judge Nicholas Garaufis noted on February 14, 2005 regarding a similar issue involving the Bonanno family (02CR307, US v Joseph Massino, EDNY): "It has been clear that the public possesses a broad right to inspect and copy court documents" since at least 1978 when the U.S. Supreme Court made that determination in *Nixon v. Warner Communications*, 435 U.S. 589, 597-98 (1978.) "This right is not rooted in the Constitution," Garaufis added, "but derives rather from the public's common law interest in being able to monitor the operations of the courts and other public agencies."

For the above reasons, I ask most respectfully that you order the government to make available the photos that are contained in Exhibit B.

Thank you, in advance, for your prompt consideration to this matter.

Sincerely,



Jerry Capeci